



FRITZ, BYRNE, HEAD & HARRISON, PLLC

Attorneys at Law

December 27, 2010

Ms. LaDonna Castañuela, Chief Clerk
Office of the Chief Clerk (MC-105)
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 DEC 27 PM 12:10
CHIEF CLERKS OFFICE

Re: In the Matter of the Application of Genan, Inc. for Scrap Tire Storage and
Processing Facility Registration No. 6200673

Dear Ms. Castañuela:

Enclosed are an original and eight (8) copies of Genan, Inc.'s Response to Citizens for Responsible Recycling's Motion to Overturn Regarding Issuance of Scrap Tire Storage Facility Registration No. 6200673 to Genan, Inc. which we respectfully request be filed among the other papers in the above-referenced proceeding.

A copy of the Response is being forwarded to all parties of interest as set forth below. Thank you for your assistance in this matter.

Very truly yours,

FRITZ, BYRNE, HEAD & HARRISON, PLLC

By:

Ann M. Devers
Assistant to Bob Renbarger

ROR/amd
Enclosures
cc: See, Certificate of Service

Value Driven...Client Oriented



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IN THE MATTER OF THE
APPLICATION OF GENAN, INC.
FOR SCRAP TIRE STORAGE AND
PROCESSING FACILITY
REGISTRATION NO. 6200673

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BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY

**GENAN, INC.'S RESPONSE TO CITIZENS
FOR RESPONSIBLE RECYCLING'S MOTION
TO OVERTURN REGARDING ISSUANCE OF SCRAP TIRE
STORAGE FACILITY REGISTRATION NO. 6200673 TO GENAN, INC.**

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2010 DEC 27 PM 12:10
CHIEF CLERK'S OFFICE

TO THE HONORABLE COMMISSIONERS:

Genan, Inc. (hereinafter "Genan" or "Applicant") files this response in support of the Texas Commission on Environmental Quality's ("TCEQ" or "Commission") decision by its Executive Director approving Scrap Storage Facility Registration No. 620073 and in opposition to the Motion to Overturn filed by Citizens for Responsible Recycling ("CRR" or "Movant"). In support of this response, Genan respectfully shows the following:

I. Introduction

Genan is the world's leading knowledge-based company for the extraction and production of rubber powder from scrap tires. It operates some of the world's largest recycling plants in Denmark and Germany. Its finished, high-quality rubber products have many industrial and commercial applications including rubber modified asphalt, artificial turf, playgrounds, and flooring, among others. See, Application, Attachment 23, p. 10. Genan's products are offered in the United States' markets and distributed through warehouses in Houston, Texas and Charleston, South Carolina. Genan plans to establish

new, state-of-the-art plants in the United States with a goal of reaching a 10% global share in the tire recycling market within the decade. The Houston facility, which is the subject of this registration application, represents a \$70 million capital investment by Genan and is expected to add jobs and revenues to the local community. The development of this project represents the best of all worlds in that it reflects a clean industry solution for the beneficial use of scrap tires from a proven, environmentally-responsible company.

CRR, the Movant, alleges that it is “an organization that would otherwise have standing” to oppose this registration. CRR claims to have “at least one member who lives within five (5) miles of the facility.” The complaints of some undisclosed person who allegedly lives within five (5) miles of the proposed facility cannot support associational standing for CRR. Such assertions are contradictory to any regulatory definition of “affected person” and are not supported by applicable case law. Indeed, the notice provisions for scrap tire facilities subject to registration only require mailed notice to be “sent to all adjacent landowners and all owners of property within 500 feet of the boundary of the facility.” 30 T.A.C. § 328.60(b)(3). Five miles represents 26,400 feet, a distance more than fifty (50) times the limitations set forth in the rules for mailed notice. Under such facts, Genan believes that CRR’s interests in this matter are, at best, dubious and that it remains questionable whether CRR or any of its alleged members are affected by this registration. Internet searches for this entity fail to reveal its identity, location, purpose or the identity of any of its alleged members further casting doubt on who is behind this effort to challenge

Genan's registration. As will be set forth below, Genan has complied with all relevant requirements for issuance of Registration No. 6200673 contrary to Movant's allegations.

II. Adequate Notice Was Provided

One of the claims CRR makes in its Motion is that the Genan failed to provide proper notice of its registration application. CRR's premise is based on a misreading of the relevant notice provisions for scrap tire facilities. As referenced above, these notice requirements are found at 30 T.A.C. § 328.60(b)(3). This rule provides, in pertinent part:

(3) Upon filing a registration application, the facility owner or operator shall provide notice to the general public by means of a notice by publication and a notice by mail. (Emphasis added).

The Genan application was filed with the TCEQ Region 4 offices in Fort Worth, Texas on or about November 16, 2009. Shortly thereafter, Genan provided the registration application to the County Judge and certified mail notice to not only the County Judge but also the Mayor of Houston, the Houston-Galveston Area Council, the local Fire Marshall's Office, Sheldon County Fire & Rescue, East Houston Regional Medical Center, the Harris County Sheriff, the Honorable Joe Cobb (State Representative) and the Honorable John Whitmire (State Senator). Contemporaneously, Genan also provided certified mail notice to the adjacent landowners and landowners within 500 feet of the proposed facility's boundaries. See, Application, Attachment 8 for copies of all certified mail notices and receipts.

In the legal notices initially sent by Genan, all of the information identified in § 328.60(b)(3) was specifically addressed. On and after the date of these initial notices, a copy of the registration application remained at the County Judge's offices for viewing by members of the interested public. Subsequent revisions of the application were further provided to the County Judge, Mayor of Houston and the Houston-Galveston Area Council on or about August 7, 2010. These submittals were provided at the time that Genan submitted revisions to its original application in response to a TCEQ Notice of Deficiency letter ("NOD"). Application, Attachment 8. Genan essentially did what the rules require. As stated in the rules, "Upon filing," it provided certified mail notices containing all the required information to the various offices, entities and potentially affected landowners and further provided copies of the original and revised application to the relevant public officials in a timely fashion.

As further required by § 328.60(b)(3), Genan also provided publication notice of its application. Initially, Genan published notice on November 19, 2009 and December 3, 2009 in the North Channel Sentinel, a newspaper of general circulation in Harris County, Texas. Subsequently, Genan expanded its publication notice by republication of the same notice on February 14, 21 and 28, 2010 in the Houston Chronicle, a newspaper of general circulation in Harris County and twelve additional counties in the region. In all publication notices, the information required by § 328.60(b)(3) was clearly stated. Importantly, at all times subsequent to the initial application filing in November 2009, copies of the then-current

application remained on file at the Harris County Judge's offices for local public viewing. The TCEQ contact identified in the notice, Ms. Cynthia Hackathorn, remained the staff resource person for inquiries about the application throughout the process. See, Application, Attachment 7.

Contrary to CRR's claims, the public was not denied the opportunity to review the complete application. A member of the public need only go to the County Judge's office in Harris County, Texas anytime after the original filing to review the application. In addition to the original application, revisions to this application were further provided and available to the public on or after August 7, 2010. One only has to review the original complaint letter of CRR dated September 29, 2010 to determine that CRR and the general public had access to the application materials. See, CRR letter dated September 29, 2009 attached hereto as Exhibit A. The complaint letter contains essentially the same claims that are now evident in the Movant's motion. CRR's claims regarding notice and access to application materials are groundless.

III. Adequate Information Exists in the Application Regarding the Proposed Site and Required Maps

CRR claims that the application contained insufficient information to identify and characterize the Genan site. These same complaints were advanced prior to issuance of Registration No. 6200673 in CRR's September 29, 2010 letter and were not found to be persuasive.

The Genan revised application contained a general location map (Attachment 2), a USGS topographic map (Attachment 3), a FEMA floodplain map (Attachment 4), a Drainage Plan Surface Map (Attachment 5), a Shredder Layout Map (reflecting shredder locations in the future processing building in Attachment 9), an Offset Property Ownership Map (Attachment 11), a TxDOT map (Attachment 21), a Topographic Survey Map (Attachment 31) and a Tire Storage Site Plan with Fire Control System Map (Attachment 32). All of these maps and application materials bear the seal of a Registered Professional Engineer except for the topographic survey map (which is sealed by a Registered Professional Land Surveyor). All maps derived from existing public entities were not altered from their condition as provided by that public entity. The maps created by Genan for purposes of preparation of the application were more than adequate for purposes of the TCEQ staff review and contain sufficient detail to address any mapping issue.

The same issues presented in CRR's September 29, 2010 letter and its pending motion were adequately addressed in Genan's response letter to TCEQ Scrap Tire Registration Coordinator, Ms. Cynthia Hackathorn, by Genan's letter dated October 8, 2010. (A copy of this letter is attached for your reference as Exhibit B). These complaints represent little more than a hypertechnical critique and misreading of the application materials. Ms. Hackathorn, a seasoned reviewer of scrap tire registration applications, had little trouble in determining that the revised application sufficiently met the registration requirements.

A fitting example of the types of complaints advanced by CRR is the claim that the landowners' map does not "clearly reflect that a 500 foot radius has been drawn around the site." Motion, p. 4. Anyone with rudimentary map reading skills can determine that such is not the case by simply reviewing the map's scale presented in its right-hand column and using that scale to measure the distance between Genan's facility property line and the elliptical pattern surrounding it. See, Application, Attachment 11. It is evident that CRR elected to complain about the map without viewing it critically or even attempting to engage in a modest effort to correctly interpret the map's basic information.

The same may be said of its complaint that the landowners' map reflects a notation of "NE HC MUD 1" which CRR then suggests is an entity that should have been provided public notice. Motion, p. 5. Again, a minimal review of Attachment 11 would have revealed that the owner of the parcels of land with such designation (Parcels 19A, 19B, 20A, 20B, 21A and 21B) all are owned by an entity identified in the Harris County Appraisal District records as BGM Land Investments, Ltd.. BGM Land Investments, Ltd. did, in fact, receive certified mail notice as the owner of these properties as evidenced in Attachment 8 of the application.

CRR next complains that "none of the maps reflect that a residential structure sits on the proposed site" as required by the rules. Motion, p. 5. CRR is correct that no such residential structure is depicted on any of Genan's maps. What CRR fails to recognize is that no such residential structure exists. The only existing structure identified on the

proposed site map is a temporary office building. Although it is not a residential structure within the meaning of the regulations, it is clearly identified on the Tire Storage Site Map and designated as a temporary office building. See, Application, Attachment 32. Once again, CRR is quick to make allegations but short on its facts.

The motion filed by CRR presents no substantive issues that would warrant reconsideration of the Executive Director's decision to issue Registration No. 6200673. While CRR might argue that it would have prepared the application differently, CRR's complaints fall far short of persuasive for the relief it has requested.

V. Application Submittals Contained Sufficient Technical Information to Support Issuance of the Registration

CRR makes numerous complaints about the sufficiency of the technical information provided in Genan's application. (See, generally, Motion, pp. 5 - 8). These complaints focus on drainage issues, the fire plan, closure cost estimate, site operating plan and other permits that may be required to operate the proposed facility. These claims are generally speculative and are not supported in law or fact.

CRR first complains that the site layout plan did not "clearly show" the location of the gatehouse and the shredder. Motion, p. 5. This is incorrect. The gatehouse is shown at the top of the Tire Storage Site Plan (Attachment 32) as well as the future manufacturing building which will house the shredder. See, also, Attachment 10 which reflects the location of the shredder within this processing building. CRR also makes claim that Genan provided "no information about insurance held by the company." *Id.* at p. 5. A review of the first

page of Attachment 27 clearly reveals that Genan, Inc. is included as an insured (along with other companies comprising the Genan Group) on Chartis Policy No. 12.0.09.628.

CRR next complains that Genan did not demonstrate that its post-development facility would not cause significant alterations to the site's normal drainage patterns. Motion at pp. 5 - 7. The original application contained a Detention Pond Study dated October 2009. This study provided calculations for the pre- and post-development site drainage. Included in this drainage plan and analysis was the conclusion that a 40.21 acre-feet detention pond was required to handle the increased peak flow due to development of the site. This study provided for detention of stormwater for the equivalent of the 100 year storm and pumpage off-site at a rate of 6 cfs to an adjoining drainage ditch maintained by TxDOT. A copy of the Executive Summary of drainage plan/study included in the original application is attached as Exhibit C. After conferring with representatives of TxDOT, Genan agreed to reduce its pumping rate of the detention pond to a lower volume. Accordingly, Genan's Detention Pond Study was revised in February 2010 to reflect this agreement with TxDOT and a corresponding reduction of pumpage rate and outfalls. Instead of one outfall discharging at a rate of 6.0 cfs, the amended plan set forth two outfalls on the property; one on the east side of the property with a maximum discharge of 2.96 cfs and one on the west side of the property with a maximum discharge of 1.03 cfs. The total maximum discharge from the developed site of 3.99 cfs represents a significant reduction of stormwater discharge from the original plan's 6.0 cfs. See, Exhibit D. Hence, it was not an error for the

TCEQ staff to conclude that development of the site and scrap tire facility would not cause a significant alteration of drainage patterns or otherwise adversely affect local drainage systems. These plans and studies were properly sealed by the Registered Professional Engineer who either initial prepared them or subsequently revised them (Exhibits C and D).¹

CRR also makes general complaints about the Fire Plan, the cost estimate for closure, the Site Operating Plan and that the application does not demonstrate that all applicable federal, state and local permits had been obtained prior to submittal of the application. Motion at pp. 7 - 8. While it is CRR's right to suggest it might have filed a registration application in a different manner, that begs the question of whether Genan's application is sufficient for a proposed facility representing such a low risk to the public health and safety and the environment.

The Fire Plan is adequate and has met the approval of the Harris County Fire Marshall. See, Application, Attachment 15. Approval by the Fire Marshall is a requirement of 30 T.A.C. § 328.60(b)(9)(D). The Fire Plan further contains approvals by all of the required local emergency responders as required by 30 T.A.C. § 328.60(b)(10)(C). See, Application, Attachments 16 - 18.

¹ CRR asserts that because the drainage study was revised and bears two different engineering seals, Genan should be required to designate which engineer is responsible for the application. Chapter 328 contains no such requirements. See, 30 T.A.C. § 328.60(b)(5). By affixing his seal, the engineer takes professional responsibility for the document so sealed. It is common practice for applications to bear more than one seal and, in this instance, it merely reflects that the revisions were performed by a different engineer.

CRR makes a vague and general statement that the closure cost estimate “is inadequate and warrants further investigation.” Motion at p. 8. While such an abstract claim does not merit much of a response, suffice it to say that Genan’s closure cost estimate (Attachment 19) was prepared and sealed by a Registered Professional Engineer and in compliance with the provisions of 30 T.A.C. §§ 328.60(b)(10)(D) and 328.71. Attachment 19 further evidences the posting of an irrevocable letter of credit in the amount of \$532,048 in the unlikely event that a third party would have to assume closure of the facility. Genan’s closure cost estimate is consistent with all applicable rules and TCEQ procedures.

The next general complaint by CRR is that Genan’s Site Operating Plan is “too general” and its Vector Control Plan “is inadequate and should have been approved by the Harris County Mosquito Authority.” Motion at p. 8. Again, Genan would simply state that its Site Operating Plan sufficiently addresses the requirements of 30 T.A.C. § 328.60, was properly sealed and incorporated by reference any relevant attachments to the application for more detailed descriptions of some of its features. The plan is adequate under the rules and was found to be so by the TCEQ’s highly-experienced staff reviewer.

With regard to CRR’s claim that Genan should have been required to obtain all federal, state and local permit prior to submission of its registration application, CRR is wrong. Genan fully responded to this claim in its October 8, 2010 letter (Exhibit B) as well as its July 16, 2010 response to the TCEQ’s NOD letter. (Exhibit E). In its response to the NOD, Genan indicated the various approvals obtained from the Harris County Fire Marshall,

the ongoing review process of proposed construction plans by the Harris County Permitting Office and the response received from reviews of drainage plans by the Harris County Drainage District. Genan has committed to provide the TCEQ with all applicable local permits as they are issued. As a practical matter, Harris County would not issue any building-related permits until the registration was issued so it would be impossible to list yet-to-be issued permits in the application. Obviously, even with its valid registration, Genan will not initiate any operations prior to securing any other required permits.

Lastly, CRR complains that Genan's application does not contain sufficient information to comply with the requirements found at 30 T.A.C. § 328.63 for processing facilities. Once again, CRR is off the mark. CRR's vague complaint states, for example, that "the end use market for the processed product is very general and amounts to nothing other than an advertising brochure." Motion at p. 8. Attachment 23 to the application (Genan's Marketing Plan) set forth the company's structure, its general business strategy, what its proposed Texas facility will consist of, different established uses of its products and representations about its plan to market these products, among other things. It is difficult to understand CRR's complaint in such regard as Genan is not required to disclose its proprietary processing information, its sales strategy, product pricing or its customer lists. Such detailed information reflects trade secrets and confidential information that is not required to be divulged. 30 T.A.C. § 328.63(c)(4)(E) only requires the applicant identify

“the product to be manufactured and the end use market.” Genan has exceeded these minimal requirements in its application and specifically so in Attachment 23.

V. Conclusion

In an unsworn pleading, a nebulous organization with unknown membership and without any proof of truly being affected by Registration No. 6200673, is asking the Commission to overturn the Executive Director’s determination that Genan’s registration application was sufficient. In its motion, CRR has distorted the facts, misinterpreted sections of Chapter 328 of the Commission rules and offered vague criticisms of the subject application. Genan strongly disagrees with these assertions and disputes the Movant’s conclusions regarding the sufficiency of its application. Genan respectfully requests the Commission to overrule this motion and, in doing so, affirm the Executive Director’s issuance of Registration No. 6200673.

Respectfully submitted,

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By: Bob Renbarger
J. D. Head
State Bar No. 09322400
Bob Renbarger
State Bar No. 16768100

ATTORNEYS FOR GENAN, INC.

CERTIFICATE OF SERVICE

By my signature above, I hereby certify that a true and correct copy of the foregoing document was served on this 27th day of December, 2010, via U.S. First Class mail to the following:

Mr. Guy Henry
Senior Staff Attorney
Texas Commission on Environmental Quality
P.O. Box 13087 (MC-173)
Austin, TX 78711-3087

Ms. Cynthia Hackathorn
Technical Staff
Texas Commission on Environmental Quality
2309 Gravel Dr.
Fort Worth, TX 76118-6951

Mr. Blas J. Coy, Jr.
Texas Commission on Environmental Quality
P.O. Box 13087 (MC-103)
Austin, TX 78711-3087

Ms. Marisa Perales
Lowerre, Frederick, Perales, Allmon & Rockwell
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Austin, TX 78701

EXHIBIT A

LOWERRE, FREDERICK, PERALES,
ALLMON & ROCKWELL

ATTORNEYS AT LAW
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September 29, 2010

Ms. Cynthia Hackathorn,
Scrap Tire Management Registration Coordination,
TCEQ, DFW Region Office
P.O. Box 13087
Austin, TX 78711-3087
(817) 577-5700 (fax)

*via facsimile transmission
and CMRRR*

Re: Amended Application by Genan, Inc. for a scrap tire storage facility
registration

Dear Ms. Hackathorn:

On behalf of my client, I am submitting the following comments with regard to the
above-referenced application.

Generally, this amended application still fails to comply with a number of TCEQ
requirements. Even after this applicant ("Genan") was given significant additional
time to submit all of the required information in the proper format, the revised
application remains deficient in a number of respects. Several of the maps that are
included, for instance, still do not include all of the information required by the
rules. And in many cases, it is not clear what base map source was used for the
maps included in the application. More detailed deficiencies are described below.

1. Failure to comply with all notice requirements. Genan should be required
to provide new notice of its application. The revised application is substantially
different from the original one. The originally submitted application was not
complete; it lacked vital pieces of information. Those who received notice of the
application and took advantage of the opportunity to review the application were
not afforded an opportunity to review the revised application, with all the required
information. Thus, notice should be provided to the general public to alert them
that a revised application is available for public viewing.

RECEIVED

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DFW REGION-4

TCEQ's regulations require the applicant to mail notice that the application has been filed to the regional council of government ("COG") and to the appropriate mayor. Yet, the application includes no proof of mailing to either the appropriate COG or the mayor.

It is also not clear that all property owners within 500 feet of the boundary of the facility were provided with mailed notice. The landowners' list does not include the name of the landowner for the tract numbered "22" on the property ownership map. The map itself includes a notation indicating that someone needs to verify ownership of that tract. Thus, it is not clear who owns the tract or whether the owner was provided notice.

It also appears that at least some of the property within 500 feet of the proposed facility is part of a municipal utility district ("MUD"). Yet, there is no indication that the MUD has been notified of the proposed facility. This MUD should be notified; it is possible that the MUD holds easements within 500 feet of the proposed facility.

2. Site and surrounding area information is inadequate. TCEQ's rules require the inclusion of location maps in the application. These maps shall be all or a portion of county maps prepared by the Texas Department of Transportation ("TxDOT"). In addition, at least one general location map shall be at a scale of one-half inch per mile. The single general location map included with the above-referenced application does not appear to comply with these requirements. The map does not reference TxDOT as its source. It does not include a scale of one-half inch per mile. It also does not seem to include a north arrow. It is not clear if this map is the latest map available, as there is no date provided. The map simply lacks basic information required by TCEQ rules. The Harris County Right-of-Way map also fails to comply with the above-described requirements.

Similarly, the topographic map does not clearly represent all roads within one mile of the site. The map does not appear to include a north arrow. In fact, the map does not even clearly show that it is a USGS map.

The landowners' map does not clearly reflect the proposed site; nor does it clearly reflect that a 500 foot radius has been drawn around that site. In fact, this map appears to be outdated, as the affidavit of property ownership identifies a Genan official as the owner of the proposed facility site, but this is not reflected in the landowners' map or the landowners' list. Also, not every piece of property within the 500-foot radius appears on the landowners' list. For instance, the tract numbered "22" is not listed on the landowners' list.

None of the maps reflect that a residential structure sits on the proposed site, although this is required by the rules.

Also, TCEQ rules require the property ownership affidavit to include a legal description of the site. The legal description is not attached to the affidavit.

3. Engineering information does not comply with TCEQ's requirements. The Site Layout Plan must include the location of buildings and the location and description of processing equipment. But the Site Layout Plan included with this application does not clearly show the location of the gatehouse or of the shredder that will be employed.

In addition, the application must include a drainage plan, with calculations demonstrating that normal drainage patterns will not be significantly altered. The drainage plan included in the application does not demonstrate that there will be no significant alteration to natural drainage patterns. There are no calculations on the drainage map. And previous calculations provided in the original application reflect that normal drainage patterns would indeed be significantly altered. It is also unclear how the proposed detention pond will be used as a storage pond for one-million gallons of firewater and still have adequate capacity for runoff from the entire site. And it's not clear how all of the runoff will be directed to this detention pond.

The Fire Plan is also still inadequate. The Fire Plan does not include roles to be assumed by on-site personnel, duty stations, and procedures to be followed. The map, depicting various emergency response entities, does not show the best route for the emergency response teams to take to the site location. The Site Layout Plan drawing does not clearly mark the locations of the personnel assembly points and evacuation routes. And there is no information about insurance held by the company. The document included as Attachment 27 states that it confirms only existence of coverage in Denmark.

The cost estimate for closure also warrants further investigation.

4. Site Operating Plan is still too general. And there are still several state and local permits and approvals that the Applicant lacks; it should be required to obtain these approvals before this application is approved.

The Applicant should also demonstrate approval of its plan by the Harris County Mosquito Authority.

5. The application fails to include information required by Rule 328.63. Finally, the application fails to include much of the information required by

applications for processing facilities. For instance, the information about the end use market for the processed product is very general and amounts to nothing more than an advertising brochure. And the shredder layout drawing lacks basic information. Almost no useful information can be gleaned from the drawing included as Attachment 9.

For the above reasons, this application should be denied.

Thank you for your attention to this matter. If you have any questions or concerns, please contact me:

Sincerely,



Marisa Perales

CC:

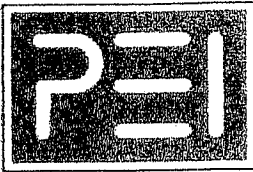
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The Honorable Ed Eamitt
Harris County Judge
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The Honorable Joe Crabb
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The Honorable John Whitmire
803 Yale Street
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EXHIBIT B



**Provident
Engineers
Inc.**

Civil & Environmental Engineering,
Land Planning and Consulting

October 8, 2010

Ms. Cynthia Hackathorn
Scrap Tire Management Registration Coordinator
TCEQ-DFW Region 4
2309 Gravel Drive
Fort Worth, TX 76118-6951

Via E-Mail chackath@tceq.state.tx.us

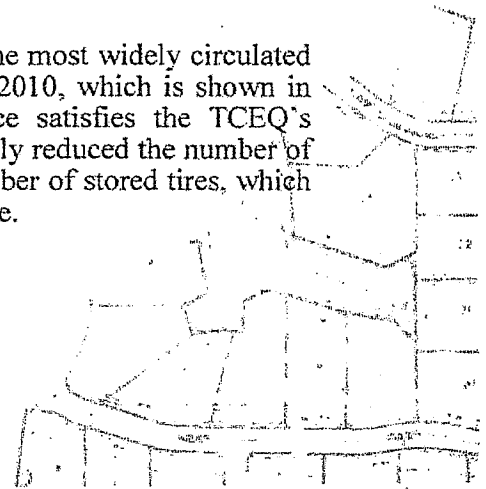
Re: Revised Scrap Tire Storage and Processing Facility (and Transporter) Registration Application dated July 16, 2010 (the "Application") filed by Genan Inc. ("Genan") with the Texas Commission on Environmental Quality ("TCEQ") pertaining to property located at 18038 Beaumont Highway, Houston, Harris County, Texas (the "Property").

Dear Ms. Hackathorn:

Genan has asked me to respond to the claims of deficiency (the "**Perales Claims**") regarding Genan's above Application that were asserted in the letter dated September 29, 2010 that you received from Marisa Perales (the "**Perales Letter**"), an attorney with the law firm of Lowerre, Frederick, Perales, Allmon, & Rockwell ("**LFPAR**"). After evaluating the Perales Claims, we have determined in our opinion that these Claims are wholly unfounded and meritless. To clearly address the Perales Claims, we have restated each of the Perales Claims in the order presented in the Perales Letter and have provided our response to each of the Claims immediately afterwards. Genan's responses to the Perales Claims are as follows:

1. Claim: Failure to comply with all notice requirements. Genan should be required to provide new notice of its application. The revised application is substantially different from the original one. The originally submitted application was not complete; it lacked vital pieces of information. Those who received notice of the application and took advantage of the opportunity to review the application were not afforded an opportunity to review the revised application, with all the required information. Thus, notice should be provided to the general public to alert them that a revised application is available for public viewing.

Response: Genan advertised a public notice in the Houston Chronicle, the most widely circulated publication in the Houston area, on Sunday, February 14, 21, and 28, 2010, which is shown in Attachment 7 to the Application. We believe that this public notice satisfies the TCEQ's requirements for this Application. In its revised Application, Genan merely reduced the number of piles to meet the TCEQ's permit requirements and thus reduced the number of stored tires, which is not a substantial change to the Application requiring a new public notice.



2. Claim: TCEQ's regulations require the applicant to mail notice that the application has been filed to the regional council of government ("COG") and to the appropriate mayor. Yet, the application includes no proof of mailing to either the appropriate COG or the mayor.

Response: In accordance with TCEQ rules, Genan provided proper notice and delivered copies of the original application dated November 16, 2009 (the "**Original Application**") and the revised Application to all required entities. The Original Application and revised Application were properly sent to the Houston-Galveston Area Council, the Mayor of the City of Houston, and the Harris County Judge on August 7, 2010, as shown in Attachment 8 to the Application.

3. Claim: It is also not clear that all property owners within 500 feet of the boundary of the facility were provided with mailed notice. The landowners' list does not include the name of the landowner for the tract numbered "22" on the property ownership map. The map itself includes a notation indicating that someone needs to 'verify' ownership of that tract. Thus, it is not clear who owns the tract or whether the owner was provided notice.

Response: Genan provided proper notice and delivered copies of the Original Application and the revised Application to all required entities. Tract number 22 is owned by the same owner as tract number 15, which is owned by Southern Pacific Rail Corporation, which was notified.

4. Claim: It also appears that at least some of the property within 500 feet of the proposed facility is part of a municipal utility district ("MUD"). Yet, there is no indication that the MUD has been notified of the proposed facility. This MUD should be notified; it is possible that the MUD holds easements within 500 feet of the proposed facility.

Response: Genan gave proper notice and delivered copies of the Original Application and the revised Application to all required entities. We have attached to this letter a map from the TCEQ which shows all MUD and CCN's in the area. The closest MUD is 2.1 miles to the east of the Property, and the closest CCN is 1.4 miles to the northwest of the Property. The Harris County Appraisal District map shows a NE HC MUD 1; however, the TCEQ's records do not show a MUD with that name, as the attached list of water districts shows.

5. Claim: Site and surrounding area information is inadequate. TCEQ's rules require the inclusion of location maps in the application. These maps shall be all or a portion of county maps prepared by the Texas Department of Transportation ("TxDOT"), in addition, at least one general location map shall be at a scale of one-half inch per mile. The single general location map included with the above-referenced application does not appear to comply with these requirements. The map does not reference TxDOT as its source. It does not include a scale of one-half inch per mile. It also does not seem to include a north arrow. It is not clear if this map is the latest map available, as there is no date provided. The map simply lacks basic information required by TCEQ rules. The Harris County Right-of-Way map also fails to comply with the above-described requirements.

Response: All of the maps attached by Genan to its Application satisfy the TCEQ's permit requirements and rules. The Harris County Right-of-Way map used by Genan was supplied by TxDOT and is the most current map of the area where the Property is located.

6. Claim: Similarly, the topographic map does not clearly represent all roads within one mile of the site. The map does not appear to include a north arrow. In fact, the map does not even clearly show that it is a USGS map.

Response: The map referenced in Claim 6 is a USGS quad map.

7. Claim: The landowners' map does not clearly reflect the proposed site; nor does it clearly reflect that a 500 foot radius has been drawn around that site. In fact, this map appears to be outdated, as the affidavit of property ownership identifies a Genan official as the owner of the proposed facility site, but this is not reflected in the landowners' map or the landowners' list. Also, not every piece of property within the 500-foot radius appears on the landowners' list. For instance, the tract numbered "22" is not listed on the landowners' list.

Response: The Genan tract includes sites 1, 2 and 3 as shown on the map in Attachment 11 to the Application. The owner of site 22 is Southern Pacific Rail Corporation, which was notified. The map used by Genan in its Application was the most current Harris County Appraisal District map at the time of the filing of the Application.

8. Claim: None of the maps reflect that a residential structure sits on the proposed site, although this is required by the rules.

Response: Genan owns the 39 acre proposed site and there is no residential structure on the Property constituting the site. There is a temporary office building that will be used as a construction office and is shown in Attachment 32 of the Application.

9. Claim: Also, TCEQ rules require the property ownership affidavit to include a legal description of the site. The legal description is not attached to the affidavit.

Response: The legal description on the Property is provided in Attachment 12 of the Application.

10. **Claim:** Engineering information does not comply with TCEQ's requirements. The Site Layout Plan must include the location of buildings and the location and description of processing equipment. But the Site Layout Plan included with this application does not clearly show the location of the gatehouse or of the shredder that will be employed.

Response: All required information under TCEQ rules is shown on the Site Layout Plan in Attachment 32 of the Application. The gate is shown to be located off of the entrance at Batson Road and the shredder location is shown on the Site Layout Plan.

11. Claim: In addition, the application must include a drainage plan, with calculations demonstrating that normal drainage patterns will not be significantly altered. The drainage plan included in the application does not demonstrate that there will be no significant alteration to natural drainage patterns. There are no calculations on the drainage map. And previous calculations provided in the original application reflect that normal drainage patterns would indeed be significantly altered. It is also unclear how the proposed detention pond will

be used as a storage pond for one-million gallons of firewater and still have adequate capacity for runoff from the entire site. And it's not clear how all of the runoff will be directed to this detention pond.

Response: The drainage plan in the Application is a comprehensive drainage report that has been approved by the Harris County Flood Control District as stated in Attachment 29 of the Application. A copy of the report is available upon request. The detention pond is designed to detain runoff water from a 100-year storm event and pump the water to the road side ditch at a very low flow rate.

12. Claim: The Fire Plan is also still inadequate. The Fire Plan does not include roles to be assumed by on-site personnel, duty stations, and procedures to be followed. The map, depicting various emergency response entities, does not show the best route for the emergency response teams to take to the site location. The Site Layout Plan drawing does not clearly mark the locations of the personnel assembly points and evacuation routes. And, there is no information about insurance held by the company. The document included as Attachment 27 states that it confirms only existence of coverage in Denmark.

Response: The fire plan has been signed and approved by the Harris County Fire Marshal.

13. Claim: The cost estimate for closure also warrants further investigation.

Response: The cost estimate for closure is self-explanatory and fully satisfies TCEQ's requirements.

14. Claim: Site Operating Plan is still too general. And, there are still several state and local permits and approvals that the Applicant lacks; it should be required to obtain these approvals before this application is approved.

Response: The site plan is complete and all required permits for the application phase of this permit request have been obtained.

15. Claim: The Applicant should also demonstrate approval of its plan by the Harris County Mosquito Authority.

Response: No requirement exists for an approval by the Harris County Mosquito Authority. Genan, as explained in the Application, will use baled tire stacks on the proposed site to minimize vector infestation of the scrap tires. The Harris County Fire Marshal's Office is in complete agreement with the proposed use of baled tires to minimize vector infestation. The Site Manager, Wilson "Butch" Battreall, will be responsible for a routine bi-weekly inspection of the entire site for signs of infestation by vermin or other pests. Upon any indication of an infestation, a licensed pest control company will be contacted to address and remedy any infestation. ABC Pest, Pool & Lawn Services has agreed to be available on an "on call basis" to remediate any vector problems that are discovered.

16. Claim: The application fails to include information required by Rule 328.63. Finally, the application fails to include much of the information required by applications for processing

facilities. For instance, the information about the end use market for the processed product is very general and amounts to nothing more than an advertising brochure. And, the shredder layout drawing lacks basic information. Almost no useful information can be gleaned from the drawing included as Attachment 9.

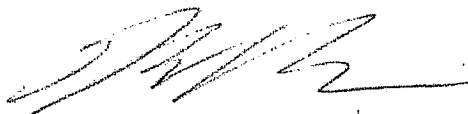
Response: Genan has included and submitted all required information to the TECQ for this Application to comply with the scrap tire facility requirements provided in Rule 328.63. Also, the drawing in Attachment 9 of the Application shows the location of the shredder and the location has also been set forth in Attachment 32, the conceptual site plan.

We believe that we have completely refuted each of the Perales Claims falsely asserted by LFPAR in the Perales Letter. We are confident that we have diligently met and exceeded all of the TCEQ's requirements for a "Scrap Tire Storage Registration Application" and a "Scrap Tire Facility Application." Further, due to the fact that the LFPAR law firm in the Perales Letter has failed to divulge its client, we maintain that the LFPAR law firm has not demonstrated that it has standing to bring such Claims on behalf of a true party in interest in the Application and that the Perales Claims should be viewed merely as the unsolicited comments of an ordinary citizen.

Thank you for your consideration of our responses. If you have any questions or would like to receive any additional information from us, please contact me by telephone at my office at (281) 313-9393.

Sincerely,

PROVIDENT ENGINEERS, INC.
Consulting Engineers



Michael V. Baldwin, P.E.
Project Manager

cc: Werner Peter
Butch Battreall
Robert L. Callaway, Esq.

Protecting Texas by
Reducing and
Preventing Pollution

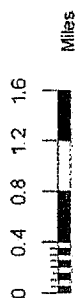


Texas Commission on Environmental Quality
P.O. Box 13087

Austin, Texas 78711-3087

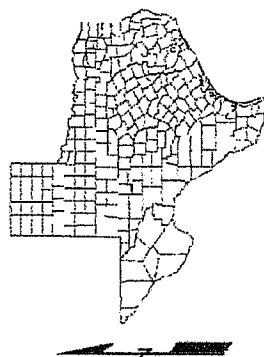
For more information
concerning this map, please contact the
Water Supply Division at (512) 239-4691.
10/06/2010

The Selected Area of Interest



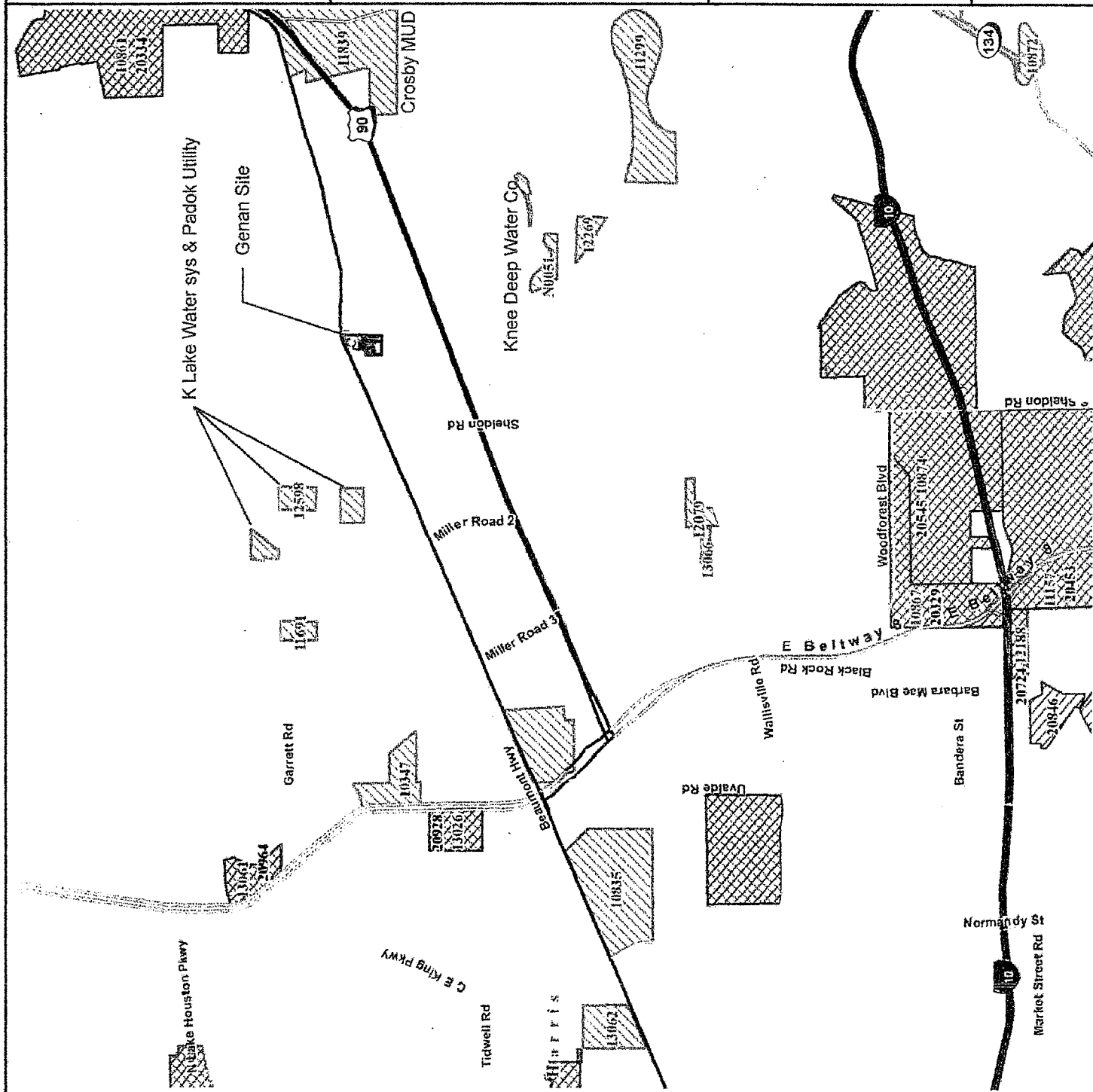
Legend

- Water CCN Facility Line
- Sewer CCN Facility Line
- Senate - Districts
- House - Districts
- TCEQ Service Region Boundary
- County Boundary
- Sewer CCN Service Area
- Water CCN Service Area
- City Boundary
- CCN Overlay Key
- Sewer-Water CCN Service Area



Disclaimer:

This map was generated by the Integrated Water Utilities Database (IWUD) from the Texas Commission on Environmental Quality. No claims are made to the accuracy or completeness of the data or its suitability for a particular use.



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[Reports](#)

[WUD Main](#)

List of Texas Water Districts

District Name or Number: NE HC MUD 1

[Advanced Search](#)

Total Active and Inactive Water Districts: 2005



Name	District Number	Activity Status
NEAR NORTHWEST MANAGEMENT DISTRICT	5949700	ACTIVE
NECHES AND TRINITY VALLEYS GCD	5949800	ACTIVE
NECHES RIVER CONSERVATION DISTRICT	5950000	DELETED/DISSOLVED
NEW CANEY MUD	5953000	ACTIVE
NEW HOPE SUD	5953500	ACTIVE
NEW SWEDEN MUD 1	5953750	ACTIVE
NEW SWEDEN MUD 2	5953875	INACTIVE
NEW SWEDEN MUD 3	5953938	INACTIVE
NEWPORT MUD	5954000	ACTIVE
NEWTON COUNTY NAVIGATION DISTRICT	5955000	DELETED/DISSOLVED
NEWTON COUNTY WATER SUPPLY DISTRICT	5960000	DELETED/DISSOLVED
NOLAN COUNTY FWSD 1	5965000	ACTIVE
NORCHESTER MUD	5967800	DELETED/DISSOLVED
NORTH ARLINGTON LID	5968200	INACTIVE
NORTH AUSTIN GROWTH CORRIDOR MUD 1	5968500	DELETED/DISSOLVED
NORTH AUSTIN MUD 1	5968600	ACTIVE
NORTH BELT UTILITY DISTRICT	5968999	DELETED/DISSOLVED
NORTH BELT UTILITY DISTRICT	5969000	ACTIVE
NORTH BOSQUE WCID	5970000	DELETED/DISSOLVED
NORTH CENTRAL AUSTIN GROWTH CORRIDOR MUD 1	5978000	DELETED/DISSOLVED
NORTH CENTRAL TEXAS MWA	5980000	ACTIVE
NORTH CHANNEL WATER AUTHORITY	5980100	ACTIVE
NORTH CHEEK SEWAGE DISTRICT	5980200	DELETED/DISSOLVED
NORTH FOREST MUD	5982990	DELETED/DISSOLVED
NORTH FOREST MUD	5983000	ACTIVE
NORTH FORT BEND WATER AUTHORITY	5983545	ACTIVE
NORTH FORT WORTH WCID 1	5983823	ACTIVE
NORTH GRAND PRAIRIE FLOOD CONTROL DISTRICT	5984100	DELETED/DISSOLVED
NORTH GREEN MUD	5984200	ACTIVE
NORTH HARDIN SPECIAL UTILITY DISTRICT	5984499	INACTIVE
NORTH HARRIS COUNTY MUD 1	5984500	DELETED/DISSOLVED
NORTH HARRIS COUNTY REGIONAL WATER AUTHORITY	5984800	ACTIVE
NORTH HAYS COUNTY MUD 1	5984900	ACTIVE
NORTH HUNT SUD	5984950	INACTIVE
NORTH LABELLE SEWAGE DISTRICT	5985000	DELETED/DISSOLVED
NORTH LEON RIVER WCID	5988000	DELETED/DISSOLVED
NORTH MISSION GLEN MUD	5989000	ACTIVE
NORTH MONTAGUE COUNTY WATER SUPPLY DISTRICT	5990000	ACTIVE
NORTH NOME IMPROVEMENT DISTRICT	5995000	DELETED/DISSOLVED
NORTH OAK CLIFF MUNICIPAL MANAGEMENT DISTRICT	5996000	INACTIVE
NORTH PARK PUD	5997000	ACTIVE
NORTH PLAINS GCD 2	5999000	ACTIVE
NORTH TARRANT COUNTY MUD 1	6001000	DELETED/DISSOLVED
NORTH TARRANT COUNTY MUNICIPAL WATER DISTRICT	6005000	DELETED/DISSOLVED
NORTH TEXAS GCD	6007500	ACTIVE
NORTH TEXAS MWD	6010000	ACTIVE
NORTH TRAVIS COUNTY MUD 1	6014500	DELETED/DISSOLVED
NORTH TRAVIS COUNTY MUD 2	6014525	DELETED/DISSOLVED
NORTH TRAVIS COUNTY MUD 3	6014550	DELETED/DISSOLVED
NORTH TRAVIS COUNTY MUD 5	6015000	DELETED/DISSOLVED



District occurrences retrieved.

EXHIBIT C

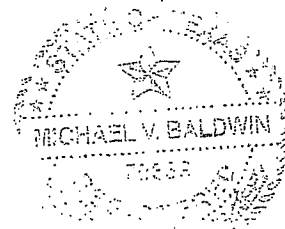
Genan
39.54 ac Site
With Batson Rd. ROW

DETENTION POND STUDY

Oct., 2009

JOB NO. 25000

PREPARED BY:
PROVIDENT ENGINEERS, INC.
FIRM REG # F-1508
8406 Buffalo Creek Dr.
RICHMOND, TEXAS 77406
Phone: (281) 313-9393
Fax: (281) 313-9390



10/20/09

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METHODOLOGY	2-3
CONCLUSION	3

I. EXECUTIVE SUMMARY

This report is to present and establish the storm water, detention volumes, needed for the proposed detention pond system and drainage improvements for 39.54 ac Genan Tract plus the 1.64 ac Batson Rd. Right-of-way as shown on Vincy Map and Map 1 for a total area of 41.18 acres.

The proposed development is located in northeast Harris County (as shown on Vincy Map, Map 1). The Genan Tract is 39.54 acres of land just south of Beaumont Hwy., east Sheldon Rd. and west of Batson Rd.

The site is being developed as a Tire storage and processing facility. The total area being developed is 41.18 acres. The proposed detention pond will be located within the site as shown on Map 2 & 3.

The required storage for this development using HCFCD criteria, is based on the HCFCD factor of 0.55 acre-feet/acre, is 22.649 ac-ft. However, this will be a pump system pond and will have a very limited outfall pumping rate due to the out fall into the exist road side ditch on the south side of the Beaumont Hwy. Using HCFCD criteria for road side ditch out fall of 0.0088 cfs/ft of frontage, using the properties ditch frontage of 634.67 feet and a HCFCD factor of 0.0088; we calculate an allowable outfall of 5.59 cfs. Using the existing conditions and a drainage area with a 150 foot depth to the Beaumont Hwy. we calculate an outfall rate of 6.17 cfs for the 10yr storm event and 10.2 cfs for the 100 yr storm event (see Map 4 and Exhibits 1 & 2). The designed pumping system will have a maximum pumping rate of 6.0 cfs at design conditions.

Project Name: Greentree Airtex Unrestricted Reserve "A" Development		
	41.18 acres	
Detention Basin Drainage Area		
Detention Storage Rage 1%	0.55 acres-feet/acre	
Detention Storage Required	22.649 acre-feet	
Detention Storage Provided	40.203 acre-feet	
	10% (10-yr)	1% (100-yr)
Design Water Surface Elevation		42.00
(1988 Datum, 2001Adjustment)		
Maximum Allowable Outflow (cfs)	N/A	N/A
Maximum Outflow Provided (cfs)	6	6

II. METHODOLOGY:

1. Drainage Area Genan Tract,

A total of 41.18 acres are in the drainage area. The following acreage is included:

Genan Site of 39.54 ac

Batson Road Right-of way of 1.64 ac.

Total: 41.18 acres @ 75.56% impervious.
(See exhibit 1)

2. Designed Peak Flow Rates:

The Harris County Flood Control District (HCFCD) Site Runoff Curves, 10-year and 100-year, were used to derive the peak flow rates, See Exhibit 3 & 4.

The peak flows for the undeveloped acreage (with 0% impervious) and the developed acreage (with 50.0% impervious which is 100% developed condition) were derived separately and are summarized as follows, See Exhibit 3 & 4:

10-Year Pre-Development Condition:

$Q = 41.94$ cfs, for total area (41.18 ac)

10-Year Post-Development Condition:

$Q = 124.82$ cfs, for total area (41.18 ac)

100-Year Pre-Development Condition:

$Q = 69.20$ cfs, for total area (41.18 ac)

100-Year Post-Development Condition:

$Q = 187.49$ cfs, for total area (41.18 ac)

3. Inflow Hydrographs:

All hydrographs were established using the Malcom Hydrograph Method (HCFCD small watershed method), See

Exhibit 5. The Total volume of each hydrograph is calculated and shown in Exhibit 6.

4. Stage-Storage Curve:

The proposed detention pond will be constructed as shown on Map 3 & 4. The total storage from the pond bottom to bank full is 40.37 ac-ft. The pond volume calculations are shown in Exhibit 7.

5. Reservoir Routing:

No routing was calculated for the project due to the pump system. At the pumping rate of 6.0 cfs the pond will be completely pumped out in 80 hours. Pump curves are shown in Exhibit 8 & 9.

III. CONCLUSION:

The required detention pond volume is 22.649 ac-ft. The proposed volume is 40.21 ac-ft and using the pumped system and a maximum outflow is 6.0 cfs and the maximum allowable outflow is 6.17 cfs therefore, the proposed pond has no adverse impact on the existing drainage system and meets HCFCD design criteria and TX DOT criteria.

EXHIBIT D

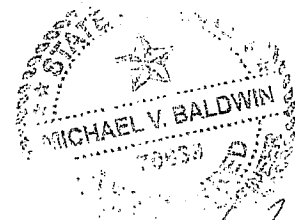
Genan
39.54 ac Site
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DETENTION POND STUDY

Oct., 2009
Revised Feb. 2010

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[Handwritten Signature]
10/19/09

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This report is to present and establish the storm water, detention volumes, needed for the proposed detention pond system and drainage improvements for 39.54 ac Genan Tract plus the 1.64 ac Batson Rd. Right-of-way as shown on Vincity Map and Map 1 for a total area of 41.18 acres.

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Project Name: Greentree Airtex Unrestricted Reserve "A " Development		
Detention Basin Drainage Area	41.18 acres	
Detention Storage Rage 1%	0.55 acres-feet/acre	
Detention Storage Required	22.649 acre-feet	
Detention Storage Provided	40.203 acre-feet	
	10% (10-yr)	1% (100-yr)
Design Water Surface Elevation (1988 Datum, 2001Adjustment)		42.00
Maximum Allowable Outflow (cfs)	N/A	N/A
Maximum Outflow Provided (cfs)	3.99	3.99

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Total: 41.18 acres @ 75.56% impervious.
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No routing was calculated for the project due to the pump system. At the pumping rate of 3.99 cfs the pond will be completely pumped out in 90 hours. Pump curves are shown in Exhibit 8 & 9.

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EXHIBIT E

Gary P. Olson, P.E.
7236 Hayworth Hwy
Granbury, TX 76048

817-279-9329
FAX: 817-573-9096

Professional Engineer:
Florida
New Mexico
Texas F-4143

July 16, 2010

Cynthia Hackathorn
Environmental Investigator
Texas Commission on Environmental Quality- Region 4
2309 Gravel Drive
Fort Worth, TX 76118-6951

RE: Genan, Inc.
Scrap Tire Storage Facility Application

Dear Ms. Hackathorn:

Enclosed herewith is the revised, original application and two copies for a proposed Scrap Tire Storage Facility and Shredder Site to be operated by Genan, Inc. in Harris County, TX. The application incorporates revisions and additions required by the Notice of Deficiency letter dated February 26, 2010 and signed by Samuel L. Bartlett. Please review the application and provide any corrections or revisions to submitted information you may require.

There has been a change in the application by Genan, Inc. They have concluded that they will comply with all of the TCEQ rules and regulations. There will be no variance requests with this submission. The three pile rule will be complied with herein. The requirement for the processing of scrap tires within 90-days will also be complied with. Scrap tires will not be accumulated until the plant is nearly completed.

The Notice of Deficiency listed nine items that had to be addressed pursuant to the demands of the TCEQ. Each item has been addressed in the application package. So as to reduce the need to check the application package for the revisions, each deficiency item is addressed herein. The numbering system employed on the Summary of Application Deficiencies will be utilized herewith to maintain continuity.

I. 30 TAC §328.60 Scrap Tire Storage Site Registration Requirements

A. §328.60.(b)(3): It is requested that the application provide documentation to support that appropriate notices were published in the Sunday edition of a newspaper or general circulation.

RESPONSE: ATTACHMENT 7- Legal Notice has an Affidavit from the Houston Chronicle that confirms notices were published on three Sundays and identifies the counties of circulation.

B. §328.60.(b)(9)(A) (iii): To satisfy commission requirements it is requested that the applicant provide a landownership map demonstrating the location of affected owners within 500-feet of the boundary of the site that has been certified by a registered professional engineer.

RESPONSE: ATTACHMENT 11- Offset Property Ownership has been revised to include the seal of a registered professional engineer on the property ownership map.

C. §328.60.(b)(9)(D): To satisfy commission requirements, it is requested that a letter from the Fire Marshal, acknowledging jurisdiction over the facility location, be included with the application stating that the he or she has reviewed and approved the fire protection aspects of the application as well as the design of the all-weather roads to accommodate fire fighting vehicles.

RESPONSE: ATTACHMENT 15- Fire Marshal Letter incorporates a revised letter from the Harris County Fire Marshal's Office dated April 7, 2010 that addresses the comment.

E. §328.60.(b)(10)(C): To satisfy commission requirements, it is requested that the fire plan include acknowledgments from any local fire departments, police departments, hospitals, contractors, nearby businesses and industries that can be called for assistance and agree to participate in the fire plan and information on any insurance that may be held by the company that would cover fire damage, loss, and cleanup.

RESPONSE: The FIRE PLAN has a contract between Genan, Inc. and Williams Fire & Hazard Control, Inc. for response to any fire at the site. At the back of the FIRE PLAN is a letter written by Genan, Inc. to the four occupied businesses around the proposed site, including a copy of the FIRE PLAN. These four letters were sent by Certified Mail, Return Receipt Requested. The return receipts are included herewith. ATTACHMENT 16- Sheldon Fire Marshal Letter includes a letter from the Sheldon Fire Chief addressing the issue raised. ATTACHMENT 17- Sheriff Letter includes a letter from the Harris County Sheriff addressing the issue raised. ATTACHMENT 18- Hospital Letter includes a letter from Bayshore Medical Center addressing the issue raised.

F. §328.61.(l) and §328.63(d)(1): To satisfy commission requirements, it is requested that the facility provide written documentation from local governing authorities to support that the proposed scrap tire facility processing operations and storage site will be designed in accordance with all local ordinances, including building codes, fire codes, and any other applicable code that may apply.

RESPONSE: As permits are issued, such permits will be provided to the TCEQ to verify compliance with the cited sections. The conceptual SITE PLAN has been approved by the Harris County Fire Marshal's Office confirming compliance with applicable fire codes. Construction plans have been prepared for the proposed SITE PLAN and have been reviewed by the Harris County Permitting Office. When the permit for the actual construction of the site is provided, a copy of same will be provided to the TCEQ for verification. ATTACHMENT 29- Harris County Drainage District is a letter from same addressed to the engineer that designed the drainage plan, approving same. Again, as approvals and permits are secured, they will be provided to the TCEQ for verification of compliance with the cited sections.

G. §328.60.(b)(10)(A) and §328.61.(c) & (d): To satisfy commission requirements, it is requested that the site layout plan of the proposed scrap tire storage site and processing operations is signed and approved by the fire marshal with jurisdiction over the facility location. Additional documentation and provisions may be required by the fire marshal to support future construction of the site and this information shall be provided to support a review of the site layout plan.

RESPONSE: ATTACHMENT 15- Fire Marshal Letter addresses the approval of the conceptual site plan layout, as is his obligation under the rules of the TCEQ.

H. §328.60.(b)(11) and §328.71: To satisfy commission requirements, it is requested that the application include evidence of financial responsibility in accordance with §328.71.

RESPONSE: ATTACHMENT 26- Financial Assurance Funding is a Trust document prepared in favor of the TCEQ in the amount of \$532,048. This provides adequate funds available to the TCEQ in the event of closure of the site. ATTACHMENT 28- Dunn & Bradstreet Report provides a glimpse into the financial

security of Genan, Inc. as a subsidiary. The loan potential of €105,000,000 provides verification of the financial ability of the company. ATTACHMENT 27- Certificate of Insurance provides the extent of insurance coverage for the holding company, including Genan, Inc., another indicator of the financial viability of the applicant.

III. 30 TAC §328.63 Scrap Tire Facility Registration Requirements

A. §328.63.(c)(4)(E): To satisfy commission requirements, it is requested that the applicant provide written documentation describing the types of processing to be performed on-site and the end use markets and/or final disposition of all used or scrap tires and/or processed tire material. The application shall include information necessary for the executive director to conduct an appropriate evaluation on the economic viability of the product which includes any long term contracts demonstrating commitments with viable end use facilities in the future.

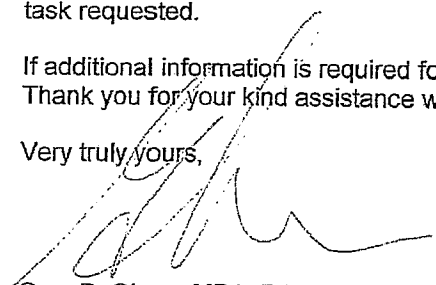
RESPONSE: ATTACHMENT 23- Marketing Plan explains the uses of the product generated by Genan, Inc., potential markets and applications. The revised SITE OPERATING PLAN addresses some of these issues. Additional information will be provided to the TCEQ by counsel for Genan, Inc.

ADDITIONAL INFORMATION REQUIRED: To satisfy commission requirements, it is requested that the applicant provide a proposed schedule for the construction and completion of the site to adequately meet design requirements to operate as a scrap tire storage site as specified in 30 TAC §328.60 and §328.61. This does include information on the construction and completion of secured fencing and construction and completion of all weather roads in and around the site. Also, the proposed schedule should include information on construction of scrap tire storage piles, fire water retention pond, processing area, and drainage structures to divert the flow of storm water run off. In addition, it is requested that the applicant provide information on an estimated date for the start up of processing operations demonstrating compliance with 30 TAC §328.61.(e) to split, quarter or shred scrap tires within 90 days upon delivery to the site.

RESPONSE: ATTACHMENT 22- Schedule provides the requested information in a dated format for each task requested.

If additional information is required for any of the foregoing, please advise at your earliest convenience. Thank you for your kind assistance with this matter.

Very truly yours,


Gary P. Olson, MBA, P.E.

Enclosures



67/16/10